IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 5322 of 2000

For Approval and Signature:

HONOURABLE MR.JUSTICE SHARAD D.DAVE

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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STATE OF GUJARAT, THROUGH DY EX ENGINEER - Petitioner(s)

Versus

KANTIBHAI GOPALDAS PATEL C/O - Respondent(s)

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Appearance :
MS RITA CHANDARANA, AGP for Petitioner(s) : 1,
RULE SERVED for Respondent(s) : 1,
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CORAM : HONOURABLE MR.JUSTICE SHARAD D.DAVE

Date : 14/10/2005

CAV JUDGMENT

1.By filing this petition, the petitioner – State of Gujarat has challenged the judgment and award dated 3.5.1999 passed by the Presiding Officer, Labour Court,

Kalol by which the petitioner is directed to reinstate the respondent – workman in service to his original post without back wages.

2. Being aggrieved and dissatisfied by the said judgment and award dated 3.5.1999 passed by the Presiding Officer, Labour Court, Kalol in Reference (LCK) No.85 of 1992, the petitioner has preferred the present petition under Article 226/227 of the Constitution of India.

3. Heard the learned A.G.P., Ms.Rita Chandarana for the petitioner. None appears on behalf of the respondent – workman though served. I have also perused the material placed on record of this petition.

4. Having heard the learned A.G.P., for the petitioner and having perused the material on record, it appears that this Court (Coram: P.K.Sarkar,J) had admitted the matter on 05.07.2000 and had stayed the operation and implementation of the impugned judgment and award. The said interim relief was confirmed by this Court (Coram : D.H.Waghela, J) on 27.09.2000.

5. It can be seen from the record that the respondent workman was working as Chokidar on daily rated basis and his services were came to be terminated from 31.01.1991. Ultimately, the respondent – workman

raised the industrial dispute which was numbered as Reference (LCK) No. 85 of 1992. After hearing the learned advocates for the parties and appreciating the evidence on record, the Presiding Officer, Labour Court, Kalol, by judgment and award dated 03.05.1999 directed the petitioner to reinstate the respondent – workman on his original post without back wages. As stated above, the said judgment and award dated 03.05.1999 had been stayed by this Court as back as on 05.07.2000.

6. The Labour Court has come to the conclusion that the respondent – workman had worked for more than 240 days and, therefore, there is a breach of the provisions of Section 25-F of the Industrial Disputes Act, 1947 (“the Act” for short). It is required to be noted that since the respondent – workman was entitled to the protection of Section 25-F of the Act, the said protection could not be denied to him on the ground that he was a daily rated worker. It is not the case of the petitioner that while terminating the services of the respondent – workman, the provisions of Section 25-F of the Act have been complied with and in that view of the matter, the termination of the services of the respondent – workman cannot be upheld and has to be set aside. It is

pertinent to note here that the services of the respondent – workman were terminated way back in 1991 and till date 14 years have elapsed. Under the circumstances, I am not inclined to direct reinstatement of the respondent – workman but considering the facts and circumstances of the case, the petitioner is directed to pay the consolidated sum of Rs.25,000/- (Rupees twenty five thousand only) to the respondent – workman in lieu of reinstatement. It is clarified that this amount is being paid by way of full and final settlement of all the claims of the respondent – workman. The said amount shall be paid within two months from today.

7. Under the circumstances, the impugned judgment and award dated 03.05.1999 passed by the Presiding Officer, Labour Court, Kalol in Reference (LCK) No. 85 of 1992 is quashed and set aside, subject to the aforesaid directions. This petition is disposed of accordingly. Rule discharged.

(Sharad D.Dave,J)

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